which is authorized by competent authority is a nuisance per se. Something more than mere incidental damages must be proved to entitle the party injured to an injunction. *Grand Rapids Ry.* v. *Heisel,* 38 Mich. 62; *Northern Transp. Co.* v. *Chicago,* 99 U. S. 635. Also the interests of the public are to be taken into consideration and when the issuance of the injunction will cause serious public inconvenience it will be denied. *Taylor* v. *Fla. etc. Ry. Co.,* 54 Fla. 635, 16 L. R. A. (N. S.) 307; *Stewart Wire Co.* v. *Lehigh Coal Co.,* 203 Pa. St. 474, 53 Atl. 352. These statements are qualified by the rule that one must so use his property as not to injure another. *Gray* v. *Harris,* 107 Mass. 492; *Baltimore Ry.* v. *Baptist Church,* 108 U. S. 317. In the principal case the evidence showed that all escape of the electricity could not be prevented under the present system, but the damage would be lessened by better bonding. The only method by which the trouble could be entirely obviated was by the installation of the overhead double trolley system. The court, however, refused to compel the defendant to change its system, saying that the reasonableness or propriety of the means to be adopted was a legislative inquiry. The principal case follows the holding of *Dayton* v. *City Ry. Co.,* 16 Oh. Cir. Dec. 736 in which the facts were almost identical. In the case of *Cumberland T. & T. Co.* v. *United Elec. R. Co.,* 42 Fed. 273, 12 L. R. A. 544 there was an analogous situation and the injunction was refused. In that case the electricity escaped from the rails of the car company to the wires of the telephone company and greatly interfered with the service. It is interesting to note that the court in the last case came to the conclusion that an overhead double trolley system would be a failure as applied to single tracks. An injunction was also refused in *Cincinnati Ry. Co.* v. *City Telegraph Ass'n.,* 48 Oh. St. 391, 12 L. R. A. 534; and in *Hudson River Tel. Co.* v. *Turnpike & R. Co.,* 135 N. Y. 393, 32 N. E. 148, 17 L. R. A. 674, 31 Am. St. Rep. 838 in which the facts were similar to the *Cumberland Case,* supra. The cases clearly point out that the legal obligation of the parties may change with the progress of invention. As was said in *Cumberland* v. *Elec. R. Co.* supra, "if it were shown by the use of certain devices that the defendants could control their return current in such a way as not to interfere with the use of complainant's instruments the law might treat their failure to adopt such measures as negligence in the use of their franchise, and enjoin them."

ESTOPPEL—CURTESY—KNOWLEDGE OF FACTS.—Plaintiff after his wife's death allowed lands to be sold by his children, believing that they owned the land, and not knowing that he had a right by curtesy in such lands. He later brought this action to recover possession as tenant by the curtesy. Defendant pleaded estoppel, in that plaintiff had knowingly allowed his son to sell the lands to an innocent purchaser. *Held,* there is no ground here for the plea of estoppel in pais. Plaintiff's ignorance of his rights, and his belief that his children owned the land after their mother's death, prevent the operation of the doctrine of estoppel. *Dotson* v. *Merritt* (1910), — Ky. —, 132 S. W. 181.

The requirement of knowledge, as applied to estoppel, is thus stated in the case of *Fletcher* v. *Holmes,* 25 Ind. 458: "The doctrine of estoppel in pais

rests upon a reasonable and just foundation. For the prevention of fraud, the law will hold a party to be concluded by his own act or admission. Surely this can have no application when everything was equally known to both parties, or where the party sought to be estopped was ignorant of the facts out of which his rights sprung, or where the party seeking to conclude him was in no degree influenced by the acts or admissions which are set up." 3 WASHBURN, REAL PROPERTY, Ed. 5, p. 81 states the rule as follows: "The doctrine of estoppel does not apply where everything is equally known to both parties, or where the party sought to be estopped was ignorant of the facts out of which his rights arose." BIGELOW, ESTOPPEL, 437, states that the following elements must be present in order to constitute an estoppel by conduct: 1. There must have been a representation or a concealment of material facts. 2. The representation must have been made with knowledge of the facts. 3. The party to whom it was made must have been ignorant of the truth of the matter. 4. It must have been made with the intention that the other party should act upon it. 5. The other party must have been induced to act upon it. This doctrine of estoppel by conduct, and the requirement of knowledge of facts, applies to the recognition of title in lands. A party in possession of land, even though he recognizes the title of another, may set up title in himself, if he shows that his recognition was based upon a misapprehension of his rights. *Wright* v. *Stice,* 173 Ill. 571. If an acknowledgment of title is produced by imposition, or made under a misapprehension of the rights of the respective parties, defendant cannot be precluded from showing that plaintiff has no title. *Jackson* v. *Spear,* 7 Wend. 401. No case seems to have been decided prior to the principal case, in which the doctrine was applied to a claim to curtesy which plaintiff set up after he had allowed the land to be sold.

EVIDENCE—COMPELLING PARTY TO PRODUCE EVIDENCE AGAINST HIMSELF.—In a criminal prosecution of a druggist for selling liquor illegally, the defendant was compelled to produce the physician's prescription upon which the sales were made in order to refresh the memory of his prescription clerk who was on the stand as a witness for the state. The prescriptions when produced proved to be defective in not embodying the particulars required by Sec. 6, Ch. 32 of the West Virginia Code. Defendant appeals from a conviction on the ground that compelling him to produce the prescriptions was compelling him to produce evidence and be a witness against himself contrary to Art. 3, Sec. 5, Const. of W. Va. *Held,* that doctors' prescriptions were not private documents the enforced production of which would be to compel a party to produce evidence against himself in violation of the constitution of West Virginia. *State* v. *Davis* (1910), — W. Va. —, 69 S. E. 639.

The court in this case specifically holds that a physician's prescription on which a druggist sells intoxicating liquor is not such a private document, as that a party cannot be compelled to produce it. That the privilege extends only to the production of private documents which tend to incriminate the party compelled to so produce them appears to be well settled. WIGMORE EVIDENCE, § 2254, *Ex parte Wilson,* 39 Tex. Cr. R. 630; *Wilson* v. *State,* 41